

REMARKS

Claims 1-24 are pending in this application. Claims 10-24 are withdrawn from consideration.

In the Office Action, the Examiner maintained his rejection of claims 1-4 and 7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,123,243 (Kawasaki) in view of U.S. Patent No. 6,801,849 (Szukala); of claim 5 under 35 U.S.C. §103(a) as being unpatentable over Kawasaki in view of Szukala and further in view of U.S. Patent No. 6,603,494 (Banks); of claim 6 under 35 U.S.C. §103(a) as being unpatentable over Kawasaki in view of Szukala and further in view of U.S. Patent No. 5,598,527 (Debrus); of claim 8 under 35 U.S.C. §103(a) as being unpatentable over Kawasaki in view of Szukala and further in view of U.S. Patent No. 5,859,628 (Ross); and of claim 9 under 35 U.S.C. §103(a) as being unpatentable over Kawasaki in view of Szukala and further in view of U.S. Patent No. 7,154,481 (Cross). These rejections are respectfully traversed. Applicants hereby request reconsideration and allowance of the claims in view of the following arguments.

In Applicants' Amendment of June 11, 2009, independent claim 1 was amended to recite that the computer-readable storage medium causes the diagnostic instrument to display an instrument identity banner including details of the type and status of the diagnostic instrument. Applicants then argued that none of the cited references teaches or suggests such an instrument identity banner.

In the latest Office Action, the Examiner contends that both the Szukala and Kawasaki references teach the recited identity banner. Applicants disagree, and submit that the Examiner is interpreting the claim language unreasonably broadly, in an attempt to shoehorn the claim

limitations into the references. One skilled in the art would not have considered Szukala or Kawasaki, alone or in combination, to have taught the claimed instrument identity banner.

The Examiner analogizes Kawasaki's display in Fig. 2 to the recited identity banner, contending that the "Pioneer" logo communicates the type of instrument, as claimed. However, the Pioneer logo simply conveys a brand name, not details of a diagnostic instrument type, as claimed. The viewer would not know anything about the instrument's functionality by viewing the Pioneer logo, and one skilled in the art would understand this. Further, even if the Pioneer logo is considered an instrument identity banner, it does not meet the limitations of claim 1, because it does not include the status of the instrument, as claimed. If the Examiner is considering the entire display of Kawasaki, including the Pioneer logo, the volume buttons, and "Step 18" volume status indicator as an identity banner, the Examiner is interpreting the claim term "banner" unreasonably broadly, since one skilled in the art would not consider an *entire display* a banner. Rather, a banner is typically a small part of a display, as shown in Fig. 4 of the present application (see ref. num. 430).

The Examiner analogizes Szukala's title bars, such as "Static Info" shown in Fig. 8(a) and "Dynamic Info" shown in Fig. 8(b), to the claimed instrument identity banner, and further contends these titles convey the current function type of the diagnostic instrument. Contrary to the Examiner's contentions, none of the title bars shown in Figs. 8(a) to 14(b) of Szukala includes details of an instrument type, as claimed. Szukala's titles refer to information and/or data relating to the *engine under test*, not to the type of diagnostic instrument. One skilled in the art would surely understand that title bars referring to static and dynamic information and data relating to an engine are not the same thing as banners displaying details of the type of a

diagnostic instrument, as claimed. The Examiner has no basis for so contending, unless the customary meaning of the claim language is disregarded, which is not warranted here.

The Examiner further analogizes Szukala's display of the term "Working . . ." in Fig. 14(b) to the claimed display in an identity banner of the status of the diagnostic instrument. Although Szukala arguably indicates the status of the instrument, the "Working . . ." indication does not appear in an instrument identity banner with an indication of the type of instrument, as claimed. It appears in the main portion of the display, remote from the title bar (which the Examiner analogizes to the claimed identity banner). The Examiner is interpreting the term "banner" unreasonably broadly by considering the main display area a banner. One skilled in the art would understand the difference between a major display area and a banner.

Since neither Kawasaki nor Szukala teaches or suggests displaying an instrument identity banner as claimed, any combination of these references, however made, would be missing this claimed feature, and it would not have been obvious to add this feature to any Kawasaki/Szukala combination.

Consequently, independent claim 1 is patentable, as are claims 2-4 and 7, which depend from claim 1.

Regarding the obviousness rejections of claims 5, 6, 8, and 9 based on Kawasaki and Szukala in combination with Banks, Debrus, Ross or Cross, since none of the additional cited references teaches or suggests displaying the claimed instrument identity banner of claim 1, from which these claims depend, any combination of Kawasaki and Szukala with these references, however made, would be missing this claimed feature, and it would not have been obvious to add this feature to any Kawasaki/Szukala/Banks/Debrus/Ross/Cross combination.

Consequently, claims 5, 6, 8, and 9 are patentable.

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP


Michael A. Messina
Registration No. 33,424

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MAM/llg
Facsimile: 202.756.8087
Date: November 6, 2009

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